



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

PAUL R. LEPAGE  
GOVERNOR

JAMES P. BROOKS  
ACTING COMMISSIONER

MEMORANDUM

TO: The Board of Environmental Protection

FROM: Andrew Flint, Bureau of Remediation and Waste Management *AF*

DATE: February 3, 2011

RE: Administrative Consent Agreement, Odyssey Contracting Corp.

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**Statute and Rule Reference:** *Oil Discharge Prevention and Pollution Control law*, 38 M.R.S.A. § 543, states in relevant part: "The discharge of oil into or upon any...lands adjoining the seacoast of the State, or into or upon any lake, pond, river, stream, sewer, surface water drainage, ground water or other waters of the State or any public or private water supply or onto lands adjacent to, on, or over such waters of the State is prohibited."

The *Oil Spill Prevention and Pollution Control Law*, 38 M.R.S.A. § 548, states in relevant part: "Any person discharging or suffering the discharge of oil in the manner prohibited by section 543 shall immediately undertake to remove that discharge to the commissioner's satisfaction."

**Locations:** Adjacent to both ends of the State Route 15 Deer Isle-Sedgwick Bridge located in the Towns of Deer Isle and Sedgwick, Maine, and adjacent to the Eggemoggin Reach section of Penobscot Bay

**Description:** Odyssey Construction Corp. ("Odyssey") has entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of 38 M.R.S.A. §§ 543 and 548. On July 2, 2010, Department staff inspected the site and observed numerous prohibited discharges of oil to soil at both the Sedgwick and Deer Isle sections of the site. Based on the locations and pattern of oil discharges and observations of Odyssey's operations at the site, Department staff concluded that discharges of oil at the site had occurred intermittently over a period of several days or weeks prior to the Department's inspection and that these discharges of oil had been left unmitigated for a sufficient period of time to allow the discharged oil to percolate into soil at least two feet below the ground surface. At the Department's request, Odyssey subsequently took action to remove these discharges to the Commissioner's satisfaction.

AUGUSTA  
17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
(207) 287-7688 FAX: (207) 287-7826  
RAY BLDG., HOSPITAL ST.

BANGOR  
106 HOGAN ROAD, SUITE 6  
BANGOR, MAINE 04401  
(207) 941-4570 FAX: (207) 941-4584

PORTLAND  
312 CANCO ROAD  
PORTLAND, MAINE 04103  
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE  
1235 CENTRAL DRIVE, SKYWAY PARK  
PRESQUE ISLE, MAINE 04769-2094  
(207) 764-0477 FAX: (207) 760-3143

**Environmental Issues:** Oil discharges and oil-contaminated soil and water at the site pose a threat to public health and the environment, including threats to ground water used as a drinking water supply and the Eggemoggin Reach section of Penobscot Bay.

**Department Recommendation:** The Department recommends acceptance of this Administrative Consent Agreement as proposed, including Odyssey's agreement to:

- a. Clean up any future oil spills immediately to the Department's satisfaction, including immediately reporting all oil spills to the Department of Environmental Protection within two (2) hours of discovery;
- b. Pay a monetary penalty of nine thousand five hundred dollars (\$9,500.00).

On December 16, 2010, Odyssey submitted payment of the proposed monetary penalty.



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JOHN ELIAS BALDACC  
GOVERNOR

BETH NAGUSKY  
ACTING COMMISSIONER

IN THE MATTER OF:

ODYSSEY CONTRACTING CORP.	)	
HOUSTON, PENNSYLVANIA	)	
HANCOCK COUNTY	)	ADMINISTRATIVE CONSENT
OIL DISCHARGE PREVENTION AND	)	AGREEMENT
POLLUTION CONTROL	)	(38 M.R.S.A. § 347-A)

This Agreement, by and among Odyssey Contracting Corp. ("Odyssey"), the Maine Department of Environmental Protection ("Department"), and the Maine Office of the Attorney General is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

1. Odyssey is a Pennsylvania corporation authorized to do business in Maine, with business headquarters in Houston, Pennsylvania. Odyssey conducts bridge painting activities. Stavros N. Semanderes is the President of Odyssey.
2. In 2009 and 2010, Odyssey was contracted by the State of Maine Department of Transportation ("MDOT") to re-paint the State Route 15 Deer Isle-Sedgwick Bridge located in the Towns of Deer Isle and Sedgwick, Maine. Odyssey staged equipment for the re-painting project, including two aboveground oil storage tanks ("ASTs"), on property located adjacent to State Route 15 at both the Deer Isle and Sedgwick ends of the bridge (properties hereinafter collectively referred to as the "site"). The site is located adjacent to the Eggemoggin Reach section of Penobscot Bay.
3. Throughout the period of time addressed by this Agreement, Odyssey was subject to the following Maine environmental standards:
  - a. *Oil Discharge Prevention and Pollution Control*, 38 M.R.S.A. § 543. This section prohibits the unlicensed discharge of oil to coastal waters and lands adjoining the seacoast of the State, or into or upon any surface water drainage, ground water or other waters of the State or onto lands adjacent to, on, or over such waters.
  - b. *Oil Spill Prevention and Pollution Control Law*, 38 M.R.S.A. § 548 and the *Underground Oil Storage Facilities and Ground Water Protection law*, 38 M.R.S.A. § 568. These sections require any person discharging or suffering the discharge of oil in a manner prohibited by 38 M.R.S.A. § 543

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17 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0017  
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PRESQUE ISLE, MAINE 04679-2094  
(207) 764-0477 FAX: (207) 760-3143

**ODYSSEY CONTRACTING CORP.  
HOUSTON, PENNSYLVANIA  
HANCOCK COUNTY  
OIL DISCHARGE PREVENTION AND  
POLLUTION CONTROL**

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**) ADMINISTRATIVE CONSENT  
) AGREEMENT  
) (38 M.R.S.A. § 347-A)  
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to immediately undertake to remove the discharge to the commissioner's satisfaction.

4. In 2009 and 2010, the MDOT contracted Odyssey to conduct bridge repainting activities at the Deer Isle-Sedgwick Bridge.
5. At approximately 10 AM on July 1, 2010, MDOT staff discovered oil discharges at the site and alerted Odyssey management staff to the presence of oil discharges at the site. MDOT staff instructed Odyssey staff to report the spills to the Department.
6. On July 2, 2010, Department staff inspected the site and observed numerous prohibited discharges of oil to soil at both the Sedgwick and Deer Isle sections of the site. Based on the locations of the oil spills and the locations and operation of two ASTs and an air compressor operated by Odyssey at the site, Department staff inferred that most of the oil discharges were the result of oil escaping the ASTs' secondary containment structures and the air compressor.
7. Odyssey subsequently removed approximately 17 tons of oil-contaminated soil from the site under the Department's supervision. Department staff report that oil-contaminated soil was excavated adjacent to the ASTs at the site to depths of two feet or greater below the ground surface. The oil-contaminated soil removed from the site was properly disposed of off-site at Odyssey's expense.
8. The observations by Department staff of the locations and pattern of oil discharges and observations of Odyssey's operations at the site support the conclusion that discharges of oil at the site had occurred intermittently over a period of several days or weeks prior to Odyssey's report of July 1, 2010. Specifically, Department staff note that a sufficient quantity of oil had discharged at the site to saturate soil and that these discharges of oil were left unmitigated for a sufficient period of time to allow oil to percolate into soil at least two feet below the ground surface.
9. A review of the Department's records demonstrates that the Department has never issued a permit or license for the discharge of oil at the site.
10. The prohibited discharges of oil described above impacted soil and ground water, and threatened Penobscot Bay.
11. A review of the oil discharge incidents described above demonstrates that Odyssey did not undertake sufficient action to remove the discharges of oil described above to the Commissioner's satisfaction and did not report to the Department the discovery of each oil discharge described above within two (2) hours of discovery.

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HANCOCK COUNTY  
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) **ADMINISTRATIVE CONSENT**  
) **AGREEMENT**  
) **(38 M.R.S.A. § 347-A)**  
)

12. By causing or suffering the discharges of oil as described in Paragraphs 5 – 10 of this Agreement, Odyssey violated 38 M.R.S.A. § 543.
13. By failing to immediately undertake to remove prohibited discharges of oil to the Commissioner's satisfaction, as described in Paragraphs 5 – 11 of this Agreement, Odyssey violated 38 M.R.S.A. § 548.
14. On October 12, 2010, the Department issued Odyssey a Notice of Violation for the activities described in Paragraphs 5 – 11 of this Agreement, in accordance with 38 M.R.S.A. § 347-A(1)(B).
15. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.
16. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
17. To resolve the violations referred to in Paragraphs 12 and 13 of this Agreement, Odyssey agrees to:
  - A. In the future, clean up any oil spills immediately to the Department's satisfaction, including immediately reporting oil spills to the Department of Environmental Protection within two (2) hours of discovery. This may be done by calling 1-800-482-0777 (24 hours). The Department will make the decision on how much clean up is needed. This also includes taking actions to control and clean up a spill before Department staff is notified or arrives on site, and properly disposing of oil and associated waste in accordance with federal, state, and local requirements;
  - B. Pay to the Treasurer, State of Maine c/o the Ground Water Oil Clean-up Fund the sum of nine thousand five hundred dollars (\$9,500.00) as a civil monetary penalty.
18. The Department and Office of the Attorney General grant a release of their causes of action against Odyssey for the respective specific violations described in this Agreement on the express condition that all actions listed in Paragraph 17 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for injury to, destruction of, loss of, or loss of use of natural resources, or for any contamination of air, surface waters, ground waters, sediment or soils as a result of the operation of the subject facility or related activities. In the event that contamination from any oil discharge described above is found to threaten public health, safety or the environment, this Agreement shall not prohibit the Department from

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) ADMINISTRATIVE CONSENT  
) AGREEMENT  
) (38 M.R.S.A. § 347-A)  
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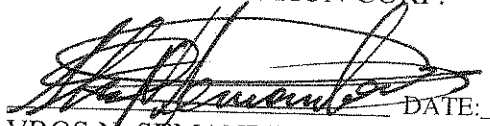
requiring additional corrective measures or other remedial actions the Department determines are necessary to protect public health, safety, or the environment. This release shall not become effective until all requirements of this Agreement are satisfied.

19. Non-compliance with this Agreement voids the release set forth in Paragraph 18 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
20. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, laws, and orders including but not limited to licensing requirements.
21. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of four (4) pages:

ODYSSEY CONSTRUCTION CORP.

BY:

 DATE: 12/14/10

STAVROS N. SEMANDERES, PRESIDENT

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY:

\_\_\_\_\_, DATE: \_\_\_\_\_  
SUSAN M. LESSARD, CHAIR

MAINE OFFICE OF THE ATTORNEY GENERAL

BY:

\_\_\_\_\_, DATE: \_\_\_\_\_  
MARY M. SAUER, ASSISTANT ATTORNEY GENERAL